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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* SCOTT A. KRIG

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Appeal 2017-000045  
Application 13/993,841<sup>1</sup>  
Technology Center 2400

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Before STEPHEN C. SIU, LARRY J. HUME, and  
TERRENCE W. MCMILLIN, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the Final  
Rejection of claims 1–28. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> According to Appellant, the real party in interest is Intel Corp. App. Br. 3.

## STATEMENT OF THE CASE<sup>2</sup>

### *The Invention*

Appellant's disclosed and claimed inventions "relate[] to encoding video analytics results." Spec. ¶ 1.

### *Exemplary Claims*

Claims 1, 2, 5, 6, 12, 20, and 28, reproduced below, are representative of the subject matter on appeal (*emphases* added to contested limitations):

1. A method comprising:

*storing information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object.*

2. The method of claim 1 *including providing a frame to indicate what type of video analytics information is included with the encoded media.*

5. The method of claim 4 *wherein providing a frame to identify objects includes identifying a frame of encoded media, identifying objects in said encoded media frame, and providing descriptors that give information about identified objects.*

6. The method of claim 1 *including providing a frame to indicate the movement of objects being tracked in the media.*

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<sup>2</sup> Our decision relies upon Appellant's Appeal Brief ("App. Br.," filed May 18, 2016); Reply Brief ("Reply Br.," filed Sept. 21, 2016); Examiner's Answer ("Ans.," mailed Aug. 12, 2016); Final Office Action ("Final Act.," mailed Feb. 22, 2016); and the original Specification ("Spec.," filed June 13, 2013).

12. A non-transitory computer readable medium storing instructions that enable a computer to:

*store data about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object.*

20. An encoder comprising:

*a processor to store encoded media, together with video analytics information for that encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object; and*

*a memory coupled to said processor.*

28. The encoder of claim 20, said processor to provide a frame indicating what type of video analytics information is included with the encoded media, a frame identifying objects within the encoded media, a frame indicating the movement of objects being tracked in the media, a frame for metadata about objects depicted in the media, and a frame with analytics summary information for each of said analytics frames.

#### *Prior Art*

The Examiner relies upon the following prior art as evidence in rejecting the claims on appeal:

Shu et al. ("Shu")

US 2009/0322881 A1

Dec. 31, 2009

*Rejections on Appeal*<sup>3</sup>

R1. Claims 1–28 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Ans. 2; Final Act. 3.

R2. Claims 1–28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shu. Ans. 2; Final Act. 6.

CLAIM GROUPING

We decide the appeal of non-statutory subject matter Rejection R1 of claims 1–28, *infra*.

Based on Appellant's arguments (App. Br. 7–9) and the Examiner's rejections cited above (Final Act. 6–11), we decide the appeal of anticipation Rejection R2 of claims 1, 4, 9–12, 14, 15, 17, 18, 20, 23, 26, and 27 on the basis of representative claim 1; we decide the appeal of anticipation Rejection R2 of claims 2, 3, 13, 21, and 22 on the basis of representative claim 2; we decide the appeal of anticipation Rejection R2 of claims 5, 16, 24, and 25 on the basis of representative claim 5; we decide the appeal of anticipation Rejection R2 of claims 6–8 and 19 on the basis of representative

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<sup>3</sup> In the event of further prosecution, we invite the Examiner's attention to the recitations of "*the* encoded media" (claim 1); "*the* encoded media" and "*said* information" (claim 12) to ensure compliance with the definiteness requirements of pre-AIA 35 U.S.C. § 112, second paragraph, or AIA 35 U.S.C. § 112(B). While the Board is authorized to reject claims under 37 C.F.R. § 41.50(b), no inference should be drawn when the Board elects not to do so. *See* Manual of Patent Examining Procedure (MPEP) § 1213.02.

claim 6. We decide the appeal of anticipation Rejection R2 of separately argued claim 28, *infra*.<sup>4</sup>

## ISSUES AND ANALYSIS

In reaching this decision, we consider all evidence presented and all arguments actually made by Appellant. We do not consider arguments that Appellant could have made but chose not to make in the Briefs, and we deem any such arguments waived. 37 C.F.R. § 41.37(c)(1)(iv).

We disagree with Appellant's arguments with respect to Rejection R1 of claims 1–28 and Rejection R2 of claims 1–28. We incorporate herein and adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken, and (2) the reasons and rebuttals set forth in the Examiner's Answer in response to Appellant's arguments. We incorporate such findings, reasons, and rebuttals herein by reference unless otherwise noted. We highlight and address specific findings and arguments regarding claims 1, 2, 5, 6, 12, 20, and 28 for emphasis as follows.

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<sup>4</sup> "Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately." 37 C.F.R. § 41.37(c)(1)(iv). In addition, when Appellant does not separately argue the patentability of dependent claims, the claims stand or fall with the claims from which they depend. *In re King*, 801 F.2d 1324, 1325 (Fed. Cir. 1986); *In re Sernaker*, 702 F.2d 989, 991 (Fed. Cir. 1983) ("Since neither of the parties argue separately the patentability of each of the rejected claims, the dependent claims will stand or fall with [the] independent claims." *In re Burckel*, 592 F.2d 1175, 1178–79, 201 U.S.P.Q. 67, 70 (Cust. & Pat.App.1979)."

1. § 101 Rejection R1 of Claims 1–28

Issue 1

Appellant argues (App. Br. 7; Reply Br. 1–2) the Examiner's rejection of claims 1–28 under 35 U.S.C. § 101 as being directed to non-statutory subject matter is in error. These contentions present us with the following issue:

Did the Examiner err in finding the subject matter of independent claims 1, 12, and 20, and claims depending therefrom, are non-statutory under § 101?

Analysis

Appellant contends "[n]o abstract idea is identified in the office action." App. Br. 7. In addition:

This seems difficult to believe given that every single claim is rejected as containing nothing more than the abstract idea. For example, even if the abstract idea was storing information, the claim calls for storing information about video analytics of the media and doing so in association with the encoded media. The applicant is not required to guess what the abstract idea might be. Since no abstract idea has been identified, a *prima facie* rejection is not made out.

*Id.*

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: "[l]aws of nature, natural phenomena, and abstract ideas are not patentable." *See, e.g., Alice Corp. Pty Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2354 (2014).

We are mindful that claim terms are not interpreted in a vacuum, devoid of the context of the claim as a whole. *See Hockerson-Halberstadt, Inc. v. Converse Inc.*, 183 F.3d 1369, 1374 (Fed. Cir. 1999) ("proper claim construction . . . demands interpretation of the entire claim in context, not a single element in isolation."); *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1088 (Fed. Cir. 2003) ("While certain terms may be at the center of the claim construction debate, the context of the surrounding words of the claim also must be considered . . .").

*Claim 1*

Claim 1 recites:

A method comprising:

storing information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object.

Here, in deciding whether Appellant's claim 1 falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court's two-step framework, described in *Mayo. Alice*, 134 S. Ct. 2347 at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)). In accordance with that framework, we first determine whether the claim is "directed to" a patent-ineligible abstract idea. If so, we then consider the elements of the claim both individually and as "an ordered combination" to determine whether the additional elements "transform the nature of the claim" into a patent-eligible application of the abstract idea. *Id.* This is a search for an "inventive concept," i.e., an



element or combination of elements sufficient to ensure that the claim amounts to "significantly more" than the abstract idea itself. (*Id.*)

We first note a "computer" is not even nominally recited in Appellant's claim 1, and we find a person would also be capable of performing the recited storing step as a mental step, or with the aid of pen and paper. For example, we find a person can store information in a variety of non-computerized ways, i.e., write, print, or memorize "information about video analytics of media in association with . . . encoded media" on, for example, a piece of paper) with a pen, within the meaning of claim 1. *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375 (Fed. Cir. 2011) ("That purely mental processes can be unpatentable, even when performed by a computer, was precisely the holding of the Supreme Court in *Gottschalk v. Benson*"). As applicable to method claim 1 on appeal, "a method that can be performed by human thought alone is merely an abstract idea and is not patent-eligible under § 101." *Id.* at 1373.<sup>5</sup>

We conclude claim 1 is directed to the abstract idea of "storing information about video analytics." We find the method of claim 1 can be

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<sup>5</sup> *See also Cybersource*, 654 F.3d at 1372 ("It is clear that unpatentable mental processes are the subject matter of claim 3. All of claim 3's method steps can be performed in the human mind, or by a human using a pen and paper. Claim 3 does not limit its scope to any particular fraud detection algorithm, and no algorithms are disclosed in the '154 patent's specification. Rather, the broad scope of claim 3 extends to essentially any method of detecting credit card fraud based on information relating past transactions to a particular "Internet address," even methods that can be performed in the human mind."); *see also In re Nuijten*, 500 F.3d 1346, 1354 (Fed. Cir. 2007) ("The four categories [of § 101] together describe the exclusive reach of patentable subject matter. If a claim covers material not found in any of the four statutory categories, that claim falls outside the plainly expressed scope of § 101 even if the subject matter is otherwise new and useful.") .

performed by a person without the use of a computer and is therefore an abstract idea beyond the scope of § 101.

Regarding prong two of the test articulated by the Supreme Court in *Alice*, we further "consider the elements of each claim both individually and 'as an ordered combination' to determine whether the additional elements 'transform the nature of the claim' into a patent-eligible application." *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1298, 1297).

Claim 1 merely recites a method for "storing information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object." There are no "additional elements [that] 'transform the nature of the claim' into a patent-eligible application." *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1298, 1297). We therefore conclude the nature of claim 1 is not transformed into a patent-eligible application of the abstract idea because claim 1 does nothing more than simply store information.

Accordingly, as a matter of claim construction, we sustain the Examiner's § 101 rejection of claim 1 and claims 2–11 which depend from claim 1.

#### *Claim 12*

Independent claim 12 recites:

A non-transitory computer readable medium storing instructions that enable a computer to:

store data about video analytics of media in association with the encoded media, said information including at least one

of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object.

For the same reasons set forth above with respect to claim 1, we conclude the nature of claim 1 is not transformed into a patent-eligible application of the abstract idea because claim 12 does nothing more than simply store data.

Accordingly, as a matter of claim construction, we sustain the Examiner's § 101 rejection of claim 12 and claims 12–19 which depend from claim 12.

*Claim 20*

Independent claim 20 recites:

An encoder comprising:

a processor to store encoded media, together with video analytics information for that encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object; and

a memory coupled to said processor.

An invention is patent-eligible if it claims a "new and useful process, machine, manufacture, or composition of matter." 35 U.S.C. § 101.

In contrast to claims 1 and 12, we find claim 20 is *not* directed to an abstract idea. Instead, we find claim 20 is directed to a "machine" in the context of § 101, and thus is patent-eligible under § 101.<sup>6</sup>

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<sup>6</sup> We note the type of data stored or intended to be stored by the processor (presumably in the memory), does not confer patentability, as discussed *infra* with respect to the § 102 rejection of the claims.

Accordingly, we cannot sustain the Examiner's § 101 rejection of claim 20 and claims 21–28 which depend therefrom.

2. § 102(b) Rejection R2 of Claims 1, 4, 9–12, 14, 15, 17, 18, 20, 23, 26, and 27

Issue 2

Appellant argues (App. Br. 7–8; Reply Br. —) the Examiner's rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by Shu is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses a method that includes the step of "storing information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object," as recited in claim 1?

Analysis

Appellant contends "[t]here is no basis to suggest that a pointer [cited in Shu by the Examiner] that points to a particular video segment somehow counts the number of frames." App. Br. 7. Appellant cites the Specification (¶ 59) in support of this argument by stating, "the L-frame information may be useful in determining, for example, how long a person who is being tracked is loitering at a given location. Nothing of the sort is suggested in any of the cited references which would require manual review of the tracked person in order to determine that someone is loitering at a given location." App. Br. 7–8.

We are not persuaded by Appellant's argument. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) ("[A]ppellant's arguments fail from the outset because . . . they are not based on limitations appearing in the claims.").

As a matter of claim construction, we find the recitation of "information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object" is non-functional descriptive material, which we give no patentable weight.

We find the claimed "information" represents data that is not recited as imparting functionality to a machine or computer within the broad scope of claim 1. Therefore, we conclude method claim 1 merely stores information (i.e., "information about video analytics of media in association with the encoded media, said information including at least one of a count of a number of frames in which an object is depicted or a list of sequence numbers of frames depicting the object") that is merely descriptive, and is not actually used to perform any function, within the scope of claim 1.<sup>7</sup>

Appellant argues:

Here the action is not just storing any information, the action that is claimed is storing information about video analytics of media in association with the encoded media, the information including at least one of a count of the number of frames in which an object is depicted or a list of sequence numbers

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<sup>7</sup> Similarly, in light of Appellant's arguments (App. Br. 7–8), we find claim 12's recitation of "store data about video analytics," and claim 20's recitation of "a processor to store encoded media, together with video analytics information" likewise rely upon non-functional descriptive material to distinguish over the prior art. We find these arguments to be unavailing.

depicting the object. The Patent Office cannot meet this claim by showing storing any information.

Reply Br. 2.

We need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See Ex parte Nehls*, 88 USPQ2d 1883, 1887–90 (BPAI 2008) (precedential); *see also In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004); *In re Lowry*, 32 F.3d 1579, 1583–84 (Fed. Cir. 1994); *see also Ex parte Mathias*, 84 USPQ2d 1276, 1279 (BPAI 2005) (informative) ("[N]onfunctional descriptive material cannot lend patentability to an invention that would have otherwise been anticipated by the prior art."), *aff'd*, 191 Fed. Appx. 959 (Fed. Cir. 2006) (Rule 36); *Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005) (informative) ("Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious."), *aff'd*, No. 06-1003 (Fed. Cir. 2006) (Rule 36). Thus, non-functional descriptive material does not confer patentability to inventions that are otherwise either anticipated or obvious over the prior art.

Therefore, on the record before us and under our claim construction, buttressed by our findings of Appellant's reliance upon non-functional descriptive material to distinguish over the cited prior art, we are not persuaded of error in the Examiner's finding of anticipation. Therefore, we sustain the Examiner's anticipation rejection of independent claim 1, and grouped claims 4, 9–12, 14, 15, 17, 18, 20, 23, 26, and 27 which fall therewith. *See Claim Grouping, supra*.

3. § 102(b) Rejection R2 of Claims 2, 3, 13, 21, and 22  
Issue 3

Appellant argues (App. Br. 8; Reply Br. 3) the Examiner's rejection of claim 2 under 35 U.S.C. § 102(b) as being anticipated by Shu is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses the method of claim 1, that includes the step of "providing a frame to indicate what type of video analytics information is included with the encoded media," as recited in claim 2?

Analysis

Appellant contends claim 2 "relate[s] to providing a frame that indicates what type of video analytics information is included with the encoded media . . . there is no indication that the encoded media [of Shu] includes any indication of what type of video analytics information is included therewith." App. Br. 8.

For the same reasons set forth above with respect to *Issue 2*, claim 1, we find claim 2 also recites non-functional descriptive material, and is therefore not patentable.<sup>8</sup>

Accordingly, based upon the findings above, on this record, and under our claim construction set forth above, we are not persuaded of error in the Examiner's reliance on the disclosure of the cited prior art to disclose the disputed limitation of claim 2 and the resulting finding of anticipation. Therefore, we sustain the Examiner's anticipation rejection of dependent

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<sup>8</sup> We agree with the Examiner's factual findings that Shu paragraph 92 and Figure 9 disclose the contested limitation of claim 2. *See* Final Act. 7.

claim 2, and grouped claims 3, 13, 21, and 22 which fall therewith. *See* Claim Grouping, *supra*.

4. § 102(b) Rejection R2 of Claims 5, 16, 24, and 25

Issue 4

Appellant argues (App. Br. 8) the Examiner's rejection of claim 5 under 35 U.S.C. § 102(b) as being anticipated by Shu is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses the method of claim 4, "wherein providing a frame to identify objects includes identifying a frame of encoded media, identifying objects in said encoded media frame, and providing descriptors that give information about identified objects," as recited in claim 5?

Analysis

Appellant contends claim 5 "relate[s] to providing a frame that identifies objects in a particular media frame and provides descriptors that give information about the identifying objects." App. Br. 8.

Appellant alleges Shu paragraph 91 cited by the Examiner "does not provide any information that identifies the object or that provides descriptors that give information about those identified objects." *Id.*

The Examiner finds, and we agree, Shu paragraph 91 discloses the track data includes a pointer to a video segment containing the object, which can also include "location data, trajectory data, motion data, visual features (for example color texture and shape) and object class or identity[.]" *Id.* (quoting Shu ¶ 91). In agreement with the Examiner, we find this disclosure discloses the contested limitation of claim 5.



Therefore, based upon the findings above, on this record, we are not persuaded of error in the Examiner's reliance on the disclosure of the cited prior art to disclose the disputed limitation of claim 5 or in the resulting finding of anticipation. Therefore, we sustain the Examiner's anticipation rejection of dependent claim 5, and grouped claims 16, 24, and 25 which fall therewith. *See Claim Grouping, supra.*

5. § 102(b) Rejection R2 of Claims 6, 7, 8, and 19

Issue 5

Appellant argues (App. Br. 8) the Examiner's rejection of claim 6 under 35 U.S.C. § 102(b) as being anticipated by Shu is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses the method of claim 1, that includes the step of "providing a frame to indicate the movement of objects being tracked in the media," as recited in claim 6?

Analysis

Appellant contends "[c]laim 7 dependent on claim 6 calls for 'providing a confidence indicator to indicate how certain is an identification of an object in the media.'" App. Br. 8. Further, "[c]laim 6 is rejected on Shu, paragraph 91. A *prima facie* rejection is plainly not made out since even in the material cited has no bearing on the claim limitation." *Id.* This is the totality of Appellant's arguments.

Regarding these claims, Appellant recites the limitation in claim 7, and contends the references do not teach the limitation. *Id.* Such statements are not considered to be arguments. 37 C.F.R. § 41.37(c)(1)(iv) ("A statement which merely points out what a claim recites will not be

considered an argument for separate patentability of the claim."; *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) ("[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art."). Thus, we do not find Appellant's arguments to be persuasive.

Therefore, based upon the findings above, on this record, and under our claim construction, we are not persuaded of error in the Examiner's reliance on the disclosure of the cited prior art to disclose the disputed limitation of claim 7 and the resulting finding of anticipation. Therefore, we sustain the Examiner's anticipation rejection of dependent claim 7, and grouped claims 6, 8, and 19 which fall therewith. *See Claim Grouping, supra*.

6. § 102(b) Rejection R2 of Claim 28  
Issue 6

Appellant argues (App. Br. 8) the Examiner's rejection of claim 28 under 35 U.S.C. § 102(b) as being anticipated by Shu is in error. These contentions present us with the following issue:

Did the Examiner err in finding the cited prior art discloses the encoder of claim 20, wherein the processor "provide[s] a frame indicating what type of video analytics information is included with the encoded media, a frame identifying objects within the encoded media, a frame indicating the movement of objects being tracked in the media, a frame for metadata about objects depicted in the media, and a frame with analytics

summary information for each of said analytics frames," as recited in claim 28?

Analysis

Appellant lists the various frames recited in claim 28, enumerated (1) through (5) (App. Br. 9), and contends "[t]he provision of separate frames for each of these types of data is nowhere suggested in the reference. Nor does any reference including Shu teach items number (1), (2) and (5) above." App. Br. 9.

We find claim 28 represents, at least in part, the combination of limitations in dependent claims 2, 5, and 6. We agree with and adopt as our own the Examiner's findings in this regard. Final Act. 11.

Moreover, similar to claim 1, we again find Appellant is attempting to distinguish claim 28 over the cited prior art by arguing the *type* of data stored. We find the recited data in claim 28 is merely non-functional descriptive material, which does not impart functionality to the encoder comprising a processor and memory within the scope of claim 28.

Therefore, based upon the findings above, on this record, and under our claim construction, we are not persuaded of error in the Examiner's reliance on the disclosure of the cited prior art to disclose the disputed limitations of claim 28 and the resulting finding of anticipation. Therefore, we sustain the Examiner's anticipation rejection of dependent claim 28.

REPLY BRIEF

To the extent Appellant may advance new arguments in the Reply Brief (Reply Br. 1–4) not in response to a shift in the Examiner's position in

the Answer, we note arguments raised in a Reply Brief that were not raised in the Appeal Brief or are not responsive to arguments raised in the Examiner's Answer will not be considered except for good cause (*see* 37 C.F.R. § 41.41(b)(2)), which Appellant has not shown.

### CONCLUSIONS

(1) The Examiner did not err with respect to Non-Statutory Subject Matter Rejection R1 of claims 1–19 under 35 U.S.C. § 101, and we sustain the rejection.

(2) The Examiner erred with respect to Non-Statutory Subject Matter Rejection R1 of claims 20–28 under 35 U.S.C. § 101, and we do not sustain the rejection.

(3) The Examiner did not err with respect to anticipation Rejection R2 of claims 1–28 under 35 U.S.C. § 102(b) over the cited prior art of record, and we sustain the rejection.

Because we have affirmed at least one ground of rejection with respect to each claim on appeal, we affirm the Examiner's decision. *See* 37 C.F.R. § 41.50(a)(1).

### DECISION

We affirm the Examiner's decision rejecting claims 1–28.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv). *See* 37 C.F.R. § 41.50(f).

### AFFIRMED